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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/687,053

10/17/2003

Bo Gunnar Ahlberg

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41804

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01/31/2008

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DALLAS, TX 75206

EXAMINER

NORMAN, MARC E

ART UNIT

PAPER NUMBER

3744

MAIL DATE

DELIVERY MODE

01/31/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/687,053

Applicant(s)

AHLBERG, BO GUNNAR

Examiner

Marc E. Norman

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broussard in view of Cartwright et al. and Sharon et al.

As per claims 14, 16, and 17, Broussard teaches a packaging system for transporting and storing thermally sensitive materials (Abstract, lines 1-2) comprising thermally insulated container 100, temperature control system 900, internal temperature sensors 910, external device (control panel 870), the external device includes a control system (Figure 9) comprising both a heater 920 and a refrigeration system 915 that can be actuated to maintain the materials at a desired temperature, and a rechargeable power supply 655. Broussard does not specifically teach directly measuring the temperature of the materials, specifying upper and lower temperature

ranges, optimizing energy use, or remote wireless controls. However, all of these features are generally old and well known in the art. As previously discussed, Cartwright et al. teach using a probe 4 to sense the temperature of thermally controlled substance. Sharon et al. teach the concept of maintaining a temperature sensitive substance within a desired temperature range while being subject to fluctuations in ambient temperature (Paragraph 0011). Finally, official notice is taken that the general desirability of optimizing energy efficiency and the use of wireless remote control devices are both well-known and broadly applicable. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply all of these features to the system of Broussard for the purpose of efficiently protecting the thermally sensitive materials during transport though fluctuating ambient conditions.

Claims 15 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gano, III et al. in view of Broussard and Sharon et al.

As per claims 15 and 20, Gano, III et al. teach a method for storing a temperature sensitive substance comprising placing the substance in a thermally insulated container 100, directly measuring the temperature of the substance (column 8, lines 3-5), and recording and retrieving the temperatures in relation to time (Figures 26-33). Gano, III et al. do not teach the temperature control activation step. As discussed above, Broussard teaches a packaging system for transporting and storing thermally sensitive materials comprising a control system (Figure 9) comprising both a heater 920 and a refrigeration system 915 that can be actuated to maintain the materials at a desired temperature. Sharon et al. teach the concept of maintaining a temperature sensitive substance within a desired temperature range while being subject to fluctuations in ambient temperature (Paragraph 0011). Similarly, it would have been obvious to one of ordinary

skill in the art at the time the invention was made to apply all of these features to the system of Gano, III et al. for the purpose of efficiently protecting the thermally sensitive materials during transport though fluctuating ambient conditions.

As per claims 18 and 19, the Examiner notes that these simply recite monitoring and calculation steps which do not are not output to any tangible result. As such, they to not recite positive limitations that further limit the claims from which they depend, and are not accorded patentable weight. Further there is no control connection between the predictions and temperature controls of parent claim 15.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 571-272-4812. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/687,053
Art Unit: 3744

Page 5

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MN

A handwritten signature in black ink, appearing to read 'M. Norman', with a stylized, flowing script.

**MARC NORMAN
PRIMARY EXAMINER**